



**The Comptroller General  
of the United States**

Washington, D.C. 20548

## Decision

**Matter of:** Trimarchi, Inc.

**File:** B-231547.2

**Date:** October 14, 1988

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### DIGEST

1. Where "brand name or equal" solicitation requires submission of descriptive literature to demonstrate equality of other than brand name, and bid of equal item includes only make and model numbers for the components and no descriptive literature; the solicitation specifically required descriptive literature; and agency was unable to ascertain that the salient characteristics were met without it, bid properly was rejected as nonresponsive.
2. Protester is not interested party eligible to protest cancellation of solicitation where protester's bid under the solicitation properly was rejected as nonresponsive, and protester thus would not have been in line for award had the solicitation not been canceled.

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### DECISION

Trimarchi, Inc. protests the rejection of its bid as nonresponsive, and the subsequent cancellation of invitation for bids (IFB) No. F40650-88-B0013, issued by the Department of the Air Force for an indefinite quantity of removable disk subsystems, spare drives, and associated data. We deny the protest in part and dismiss it in part.

The solicitation, issued on February 23, called for bids on a brand name or equal basis. The brand name item specified for item 0001 (removable disk subsystems) was "System Industries Model Quick Disconnect System SI57QDC." Among the salient characteristics to be met by a proposed equal was that the system have "sufficient chassis and drives for 1000 megabytes on-line storage." Item 0002, for spare drives, specified another Systems Industries brand name item and another set of salient characteristics. The IFB provided that bids offering equal products must include all descriptive materials necessary for the purchasing activity

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to determine both whether the product offered meets the salient characteristics and exactly what the bidder proposes to furnish. The IFB specifically warned that the contracting activity would not be responsible for locating information about the offered product which was not contained in the bid or reasonably available.

Bids were opened on April 7 and of the 14 bids received, Trimarchi's was fifth low. The four lower bids were rejected as nonresponsive, however, leaving Trimarchi as the apparent low bidder. Trimarchi bid on equal items, but provided only make and model numbers of the components, submitting no descriptive literature. The contracting officer reportedly attempted to locate information about the components, but was unsuccessful as to two of the components proposed for item 0001 and one component proposed for item 0002. The Air Force concluded that the bid therefore could not be evaluated for compliance with the salient characteristics, that the government could not establish exactly what Trimarchi proposed to furnish, and that the bid should be rejected as nonresponsive.

On May 26, Trimarchi protested the rejection of its bid to our Office, claiming that the solicitation language contemplated only that the proposed product be identified precisely and not that all descriptive information on the product be provided. Trimarchi asserted that since the brand names it proposed were well-known, the procurement officer and engineer should have been aware of the products. Trimarchi also protested that all other bids must be nonresponsive to the requirement for a minimum canister insertion rating of 25,000 cycles, because only Trimarchi products could meet that specification.

Following Trimarchi's protest, the contracting officer became aware that the brand name system identified in item 0001 was a single disk drive system, whereas a dual drive system was necessary to meet the on-line storage requirement contained in the salient characteristics. The contracting officer determined that this discrepancy created an ambiguous situation for both the government and the bidders, and decided that the solicitation should be canceled and the requirement resolicited. On July 8, Trimarchi again protested to our Office, claiming that the cancellation was unjustified because no true discrepancy existed between the brand name and the salient characteristics, at least to a bidder knowledgeable in the field.

As discussed below, we find that Trimarchi's bid properly was rejected as nonresponsive, and that since the firm thus

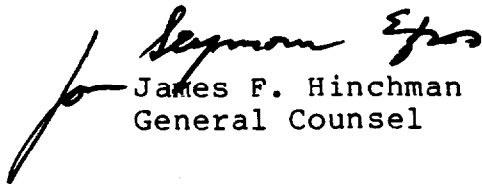
is not in line for award under the solicitation, it lacks the direct economic interest necessary to be an "interested party" eligible to protest the cancellation. See Bid Protest Regulations, 4 C.F.R. §§ 21.0(a) and 21.1(a) (1988); Display Sciences, Inc., B-222425, July 9, 1986, 86-2 CPD ¶ 49. We therefore dismiss this portion of the protest.

Where an invitation for bids advises bidders that descriptive literature is needed for bid evaluation and must be furnished, a bid submitted without the necessary descriptive material is nonresponsive and must be rejected. Monitronics, B-228219, Nov. 30, 1987, 87-2 CPD ¶ 527. As indicated above, the solicitation here specifically required that descriptive literature be submitted as part of bids proposed as equal, and warned that the government would not be responsible for locating information about the proposed products. Despite this clear requirement, Trimarchi submitted no descriptive literature with its bid. The Air Force attempted to evaluate the bid based on the descriptive literature readily available, but had no literature on three components. The record indicates that the Air Force made inquiries of other offices at the activity, including the technical library, but that none of these sources had information on the components. The record shows that the contracting officer also checked with the subcontractor at the facility most involved in computer operations and repair, who was known to routinely maintain technical information on computer products, but that this firm also had no information on Trimarchi's proposed components. As Trimarchi did not furnish the descriptive literature as required, and since the Air Force was unable on its own to locate any commercial literature on the components despite reasonable efforts, the Air Force properly rejected Trimarchi's bid as nonresponsive. See Monitronics, B-228219, supra.

Trimarchi states for the first time in its comments on the agency report that it offered to provide the needed descriptive literature after bid opening. This assertion is nowhere supported in the record. In any case, while we have held that an agency may consider descriptive material submitted after bid opening which was commercially available prior to bid opening, see Monitronics, B-228219, supra, we also have held that the contracting agency has no obligation to obtain data from the bidder after bid opening or to expend other unreasonable efforts to obtain it. Performance Controls, Inc., B-224432, Oct. 7, 1986, 86-2 CPD ¶ 405. If Trimarchi wanted to be assured that its descriptive data would be reviewed by the Air Force, it should have abided by the plain terms of the IFB and submitted it with its bid.

Finally, Trimarchi's assertion that its product alone can satisfy the minimum canister insertion requirement of 25,000 cycles is academic, since the requirement is being resolicited. Alan Scott Industries, Inc., B-223497, July 9, 1986, 86-2 CPD ¶ 53.

The protest is denied in part and dismissed in part.

  
James F. Hinchman  
General Counsel